

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICHARD MORRISON,
Plaintiff,

v.

JOHN F. DIETZ,
Defendant.

Case No. 14-cv-01604-VC

ORDER DISMISSING CASE

Now that Morrison has responded to the Order to Show Cause, the case is dismissed for lack of subject matter jurisdiction under the *Rooker-Feldman* doctrine, because the lawsuit challenges the propriety of an order of a Louisiana trial court. Morrison argues his suit is not barred because he complains merely of actions taken by individuals in post-enforcement proceedings, rather than of actions taken by the Louisiana trial court. Specifically, Morrison argues that the issuance of the Writ of Fifa, which he contends is what injured him, is a purely ministerial action, taken by the clerk of the court in response to prompting by Dietz and his attorney. But as the record demonstrates, the Louisiana trial court issued an order directing the clerk to issue a Writ of Fifa. By definition, then, Morrison is challenging the propriety of that order. His "federal claim succeeds only to the extent that the state court wrongly decided the issues before it." *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 25 (Marshall, J., concurring) (describing when a federal claim is inextricably intertwined with a state court judgment).

In any event, Sheriff Neustrom, who has already been dismissed as a defendant from the case, was the sole state actor for purposes of Morrison's claim under 28 U.S.C § 1983. Morrison claims that Dietz was a co-conspirator with the state, and so should be liable under 28 U.S.C. § 1985 for the alleged constitutional violations committed by Sheriff Neustrom. But Morrison has

1 alleged no facts to suggest that Dietz conspired with Sheriff Neustrom or the Louisiana state court
2 such that Dietz was acting under color of state law. Therefore, even if *Rooker-Feldman* did not
3 apply (which it does), Morrison's case against Dietz would be dismissed for failure to state a
4 claim.

5 The case is dismissed for lack of jurisdiction under the *Rooker-Feldman* doctrine.¹

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7 **IT IS SO ORDERED.**

8 Dated: November 5, 2014



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10 VINCE CHHABRIA
United States District Judge

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27 ¹ Dietz submitted a brief that he titled "Defendant John F. Dietz's Response in Support of
28 Dismissal; and Notice of Motion, Motion to Dismiss Plaintiff's Complaint, and Memorandum of
Points and Authorities in Support of Motion to Dismissal." This brief was improper, as Dietz has
not appeared in the case, and the Court has not relied on it.